

KCO BLOGS 2020

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GROUP RELIEF & GROUP TAXATION

FBR introduce the concept of group relief through Finance Act 2004 whereby allowing adjustment of losses of a subsidiary company against income of its holding company and after that the FBR also introduced the concept of Group Taxation through Finance Act 2007 whereby holding companies and subsidiaries of 100% owned group to opt for taxation as one fiscal unit.

Provisions related to Group Taxation and Group Relief are contained in Section 59AA and 59B of the ITO 2001 which are summarized as follows:

Group Taxation

A locally incorporated holding company and subsidiary of a 100% owned group may be taxed as one group by giving an irrevocable option for taxation as one fiscal unit. The adjustment of losses prior to the formation of group are not available. The option of group taxation shall be available to those group companies which comply with such corporate governance requirements as may be specified by the Securities and Exchange Commission of Pakistan from time to time and are designated as companies entitled to avail group taxation.

On opting group taxation, the subsidiary companies shall furnish their returns of income in their respective tax jurisdiction along with a copy of application for group taxation for record and future adjustments and intimating non-taxability of the returned income.

Taxation matters relating to the period prior to the adoption of one fiscal unit shall continue to be dealt with by the Commissioner having jurisdiction over the companies. Inter-Corporate dividend is exempt from tax and no withholding tax is required to be deducted in respect of inter-corporate dividend and profit on debt. Other provision of Income Tax Ordinance, 2001 including withholding tax responsibility shall continue to be complied with at individual company levels.

Group Relief

Any company that is the subsidiary of a holding company may surrender its assessed loss for the year to its holding company or its subsidiary or between another subsidiaries of the holding company, provided that the holding company must holds 55% shares of the subsidiary if one of the companies is a listed company. If the holding company is not listed in stock exchange than the holding must hold 75% shares of the subsidiary company.

The ownership shall continue for a period of 5 years and in case of reduction in ownership before completion of five years the profit on which tax was not paid in the previous years by loss claiming company is to be offered for tax in the year in which the ownership is reduced. The loss can be adjusted against the income form business can be surrendered for a maximum of three years. Private limited holding company availing benefit of group relief is required to get itself within three years of availing such tax benefit. Income derived from dividends is exempt from tax.

Exemption and concession under Second Schedule of ITO 2001

Following exemptions and concessions are available under Second Schedule of the ITO 2001 for companies availing Group Taxation and Group Relief under Section 59AA and 59B respectively:

- i. Clause 103A of Part I to the Second Schedule of ITO 2001 provides exemption to any income derived from inter-corporate dividend within the group companies entitled to group taxation under section 59AA subject to the condition that the return for the group has been filled.
- ii. Clause 103C of Part I to the Second Schedule of ITO 2001 provides exemption to dividend income derived by a company, if the recipient of the dividend for the tax year is eligible for group relief under section 59B of the ITO, 2001
- iii. Clause 11B of Part IV to the Second Schedule of ITO 2001 provides that the provisions of section 150 shall not apply in respect of inter-corporate dividend within the group companies entitled to group taxation under section 59AA i.e. no withholding tax is required to be deducted in respect of inter-corporate dividend.
- iv. Clause 11C of Part IV to the Second Schedule of ITO 2001 provides the provisions of section 151 relating to withholding tax on profit on debt, shall not apply in respect of inter-corporate profit on debt within the group companies entitled to group taxation under section 59AA.

BENEFITS OF GROUP TAXATION/GROUP RELIEF

Group Taxation:

The benefit for availing group taxation is that the companies will be taxed as “one fiscal unit” and inter-corporate dividends are exempt from tax and no withholding tax is required to be deducted in respect of Dividend and profit on debt.

Group Relief:

The benefit for availing group relief is that the losses can be adjusted for up-to years and inter-corporate dividend is exempt from tax.

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